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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,589	12/04/2003	Matthew P. Carter	10000/218	8981
757	7590	11/21/2007		
BRINKS HOFER GILSON & LIONE			EXAMINER	
P.O. BOX 10395			TYSON, MELANIE RUANO	
CHICAGO, IL 60610			ART UNIT	PAPER NUMBER
			3773	
			MAIL DATE	DELIVERY MODE
			11/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

CT

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,589	<b>Applicant(s)</b> CARTER ET AL.	
	<b>Examiner</b> Melanie Tyson	<b>Art Unit</b> 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-32 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-32 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 26 July 2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 24-32 and 36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vardi et al. (Publication No. 2001/0003161 A1). Vardi discloses a method of placing first and second stents into a bifurcation using a stent delivery device (see entire document) comprising the step of providing a first introducer (12) having a first distal portion (11) with a first distal outer diameter and a first stent (25), and a first proximal portion (portion adjacent first distal portion 11) having a first proximal outer diameter that is less than the first distal outer diameter (for example, see Figure 2). Vardi also discloses providing a second introducer (20) having a second distal portion (13) with a second distal outer diameter and a second stent (40), and a second proximal portion (portion adjacent second distal portion 13) having a second proximal outer diameter that is less than the second distal diameter (for example, see Figure 2).

Vardi further discloses the steps of placing the first introducer (12) and second introducer (20) in a staggered adjacent configuration, wherein the first proximal portion (portion adjacent first distal portion 11) is adjacent to the second distal portion (13) such that an overall diameter of the first and second introducers is less than the sum of the first distal outer diameter and the second distal outer diameter (for example, see Figure 2), placing a first (21) and second (31) wire guide in an adjacent configuration into a main lumen and first and second branch lumens, advancing the first (12) and second (20) introducers over the first (21) and second (31) wire guides (for example, see Figures 2, 4, and 5), positioning the first (12) and second (20) introducers within the main lumen and the first and second branch lumens, and deploying the first (25) and second (40) stents (for example, see Figures 6 and 7), wherein access to the second

branch lumen remains open as the first stent (25) is positioned within the first branch lumen and main lumen (for example, see Figure 5).

Vardi fails to disclose simultaneously positioning the first and second introducers within the main lumen and the first and second branch lumens, and further simultaneously deploying the first and second stents. Applicant has not disclosed that simultaneously positioning the introducers and simultaneously deploying the stents provides an advantage, is used for a particular purpose, or solves a stated problem. Furthermore, Applicant discloses in the specification that the introducers may be positioned sequentially, which Vardi discloses, or simultaneously and the stents may be deployed sequentially, which Vardi discloses, or simultaneously. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made as a matter of design choice to position the introducers simultaneously and deploy the stents simultaneously. Doing so would eliminate duplicate steps, thus reducing the time needed to perform the procedure.

6. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vardi et al. in view of Colgan et al. (Publication No. 2003/0040789 A1). Vardi discloses a method as described above, however, fails to disclose the step of providing an endoscope having a working channel. Colgan discloses a method of deploying a stent (see entire document). Colgan teaches the step of providing an endoscope (70) with a working channel (72). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an endoscope with a working channel in the method

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of Vardi as taught by Colgan in order to be able to locate stent placement through direct vision (paragraph 87).

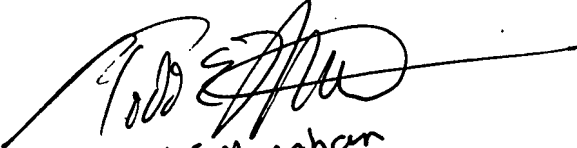
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Tyson whose telephone number is (571) 272-9062. The examiner can normally be reached on Monday through Thursday 8:30-7 (max flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie Tyson   
November 5, 2007

  
Todd E Manahan  
SPE 3731